

(ii) The recipient's management of any previous TAG award(s) was satisfactory and that costs incurred under the previous award are allowable and reasonable; and

(iii) No recipient group may receive more than \$100,000 in TAG awards for any one site.

(b) Waivers of the Matching Funds Requirement. The Award Official may waive all or part of the recipient's matching funds requirement only after establishing that:

(1) There is a need for a waiver because providing the "match" would constitute an unusual financial hardship;

(2) A good faith effort at raising the "match," including obtaining in-kind services, has failed; and

(3) The waiver is necessary to facilitate public participation in the selection of remedial action at the facility.

(c) Where a TAG recipient subsequently obtains a waiver of the matching funds requirement, the grant agreement must be amended. (See 40 CFR part 30, subpart G.)

(d) No waivers of the matching funds requirement will be granted by the Agency once the Record of Decision has been issued at the last operable unit at the site.

#### § 35.4100 Disputes.

(a) If the Agency administers the TAG Program, the Agency shall review disputes between Agency officials and the applicant or recipient in accordance with its dispute resolution procedures set forth at 40 CFR part 30, subpart L.

(b) If the State administers the TAG Program, any applicant or recipient who has been adversely affected by a State's action or omission may request Agency review of such action or omission, but must first submit a petition for review to the State agency that made the initial decision. The State must provide, in writing, normally within 45 days of the date it receives the petition, the basis for its decision regarding the disputed action or omission. The final State decision must be labeled as such and, if adverse to the applicant or recipient, must include notice of the right to request Agency review of the State decision under this

section. A State's failure to address the disputed action or omission in a timely fashion, or in writing, will not preclude Agency review.

(1) Requests for Agency review must include:

(i) A copy of any written State decision;

(ii) A statement of the amount in dispute;

(iii) A description of the issues involved; and

(iv) A concise statement of the objections to the State decision.

(2) The request must be filed by registered mail, return receipt requested, within 30 days of the date of the State decision or within a reasonable time if the State fails to respond in writing to the request for review.

(c) The Agency shall determine whether the State's review is comparable to a Dispute Decision Official's (DDO) review pursuant to 40 CFR part 30, subpart L. If the State's review is comparable, the Regional Administrator will conduct the Agency's review of the State's decision. If the State's review is not comparable, an Agency DDO will review the State's decision and issue a written decision. If the Agency DDO issues a decision, the applicant or recipient may request a Regional Administrator's review of the decision. The applicant or recipient may request an EPA Assistant Administrator review of a Regional Administrator's decision pursuant to subpart L.

#### § 35.4105 Record retention and audits.

(a) *Records and audit-recipient.* (1) Each recipient shall keep and preserve full written financial records accurately disclosing the amount and the disposition of any funds, whether in cash or in-kind, applied to the TAG project, and shall comply with the terms and conditions of the grant agreement.

(2) Such records shall be retained for ten (10) years from the date of the final Financial Status Report, or until any audit, litigation, cost-recovery, and/or any disputes initiated before the end of the 10-year retention period are settled, whichever is longer. A recipient must obtain EPA's prior written approval to destroy records after the record retention period.